

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
MARCH 21, 2007**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Michael Mower, Randy Toavs, Gordon Cross, Gene Dziza, Kathy Robertson, Barry Conger, Kim Fleming, Frank Dekort and Don Hines. Rebecca Shaw and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 2 people in the audience.

PUBLIC REVIEW

Gene Dziza reviewed the public hearing process.

**APPROVAL OF
MINUTES**

No minutes were approved at this meeting.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**PRELIMINARY
PLAT/AMD LOT
5, EAGLE'S
CREST VISTAS
FPP06-68**

A request by T. Lawrence & Armstrong, LLC for Preliminary Plat approval of the Amended Plat of Lot 5, Eagle's Crest Vistas, a two (2) lot single-family residential subdivision on 9.38 acres. Lots in the subdivision are proposed to have individual water and public sewer systems. The property is located at 185 Eagle's Crest.

STAFF REPORT

Rebecca Shaw reviewed Staff Report FPP-06-68 for the Board.

**BOARD
QUESTIONS**

None.

APPLICANT

Dave DeGrandpre, of Land Solutions, said this subdivision is the second to last addition to Eagle's Crest. He said the covenants allow lots to be broken down to four acres in size. He said the two lots will share wells, have public sewer systems, and the paved roads will be maintained by the Home Owner's association. He said Fish, Wildlife, and Parks was concerned about resubdivision, but he doesn't think the property is in a bad place to be re-subdivided.

Cross asked if the original developer is doing the proposed subdivision.

DeGrandpre said yes.

Cross asked about the reasoning behind the wells.

DeGrandpre said he came on board afterwards and wasn't sure why the wells were set up that way.

Mower asked why they didn't just use one well.

DeGrandpre said in order to be cost efficient, two wells instead of four was the idea.

Fleming asked why the lots weren't divided up into the smallest lots possible to begin with.

DeGrandpre didn't know.

Fleming asked if the applicant was taking precautions in the plans for the next subdivision so the lots are as small as possible.

DeGrandpre said Phase IV has a statement of no further subdivision.

Fleming asked how many more subdivisions there were.

DeGrandpre said he thought there would only be one more subdivision.

AGENCIES

None.

**PUBLIC
COMMENT**

None.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

None.

**MOTION
FINDINGS-OF-
FACT**

Hines made a motion seconded by Robertson to adopt Staff Report FPP-06-68 as findings-of-fact.

**BOARD
DISCUSSION**

None.

**FINDINGS-OF-
FACT
ROLL CALL**

On a roll call vote the motion passed unanimously.

**MOTION TO
APPROVE**

Hines made a motion seconded by Robertson to recommend approval of FPP-06-68 as conditioned to the County Commissioners.

**BOARD
DISCUSSION**

Fleming expressed her concern about resubdividing so quickly and how it could appear dishonest to the public who were at the beginning meeting.

Cross read a comment from Fish, Wildlife, and Parks about not subdividing the land.

**MOTION TO
AMEND
CONDITIONS**

Robertson made a motion seconded by Hines to amend condition 15, 16, and 17.

**ROLL CALL
TO AMEND
CONDITIONS**

On a roll call vote the motion passed 8-1 with Hines dissenting.

**MOTION TO
AMEND
CONDITION
15h.i**

Fleming made a motion seconded by Robertson to amend condition 15 h.i. to state: *Dogs must be kept on a leash or confined on owners property at all times.*

**BOARD
DISCUSSION**

Fleming said dogs need to be kept on a leash to be controlled.

Robertson said it is a County rule.

**ROLL CALL
CONDITION
15h.i**

On a roll call vote the motion passed 6-3 with Mower, Dziza and Toavs dissenting.

**ROLL CALL
TO APPROVE**

On a roll call vote the motion failed 4-5 with DeKort, Robertson, Conger, Fleming and Hines dissenting.

**MOTION TO
ADOPT F.O.F
AS AMENDED**

Toavs made a motion seconded by Hines to adopt FPP 06-68 as findings of fact as amended.

**MOTION
ADD F.O.F #11**

Cross made a motion seconded by Robertson to add Finding 11 to state: *Fish, Wildlife, and Parks is also reluctant to support the further subdivision or rural subdivisions. The criteria utilized to approve the initial subdivision become moot if lots are subsequently subdivided again (and again...?). This impacts all resource jurisdictions in the county, not only the wildlife and open space resources.*

**BOARD
DISCUSSION**

Dziza said Fish, Wildlife, and Parks doesn't approve subdividing in rural areas.

Toavs said the motion should say Fish, Wildlife, and Parks doesn't support any subdividing in rural areas.

**ROLL CALL
ADD F.O.F #11**

On a roll call vote the motion passed 8-1 with Mower dissenting.

**MOTION FOR
EXPLANATION**

Conger made a motion seconded by Robertson to state there is not sufficient information about the whereabouts of the wells, the explanation of why the wells were set up, and why the applicant chose the placement of the wells.

**BOARD
DISCUSSION**

Conger said he would like to know why the applicant has the wells set up that way.

Dziza said he understands what is said, but doesn't think it pertains to the Board.

Mower said it would be more cost efficient to have one well.

Hines said it has been the position of the Board to get applicant's to put in community wells.

**ROLL CALL
FOR
EXPLANATION**

On a roll call vote the motion passed 8-1 with Mower dissenting.

**MOTION TO
AMEND
F.O.F. # 4**

Fleming made a motion seconded by Robertson to amend finding 4 to state: *The effects of Wildlife can be mitigated because statements will appear on the face of the final plat as requested by Montana Department of Fish, Wildlife, and Parks.*

**ROLL CALL
F.O.F. # 4**

On a roll call vote the motion passed 5-4 with Mower, Toavs, Dziza, and DeKort dissenting.

**MOTION
ADD F.O.F #13**

Cross made a motion seconded by DeKort to add finding-of-fact #13 to read: *The applicants are the original developers of the Eagles Crest Subdivision and had the opportunity to configure the lots in this manner when they made their original application.*

**ROLL CALL TO
ADD F.O.F #13**

On a roll call vote the motion passed unanimously.

**ROLL CALL TO
ADOPT F.O.F
AS AMENDED**

On a roll call vote the motion passed unanimously.

**MOTION TO
DENY**

Fleming made a motion seconded by Robertson to recommend denial of FPP 06-68 to the County Commissioners.

ROLL CALL

On a roll call vote the motion passed 5-4 with Toavs, Mower, Cross, and Dziza dissenting.

**PRELIMINARY
PLAT/
SUBDIVISION
#235/
FPP 06-67**

A request by John and Molly Schwarz, for Preliminary Plat approval of Subdivision #235, a two (2) lot single-family residential lots on 20 acres with a 10-acre remainder. Lots in the subdivision are proposed to have individual water and septic systems. The property is located at 1234 and 1256 Three Mile Drive.

STAFF REPORT

Rebecca Shaw reviewed Staff Report FPP 06-67 for the Board.

**BOARD
QUESTIONS**

Cross asked about the approaches.

Shaw said they improved the approaches but final inspections wouldn't have been made yet. She said the applicant has approval for one approach and approval for connecting on the second.

APPLICANT

Johna Morrison, of APEC, represented the applicants. She said John and Molly Schwarz did not build the house; whoever built the house never got an approach permit. They received DEQ approval but did not file in time. If the subdivision gets approved

the approach permits will be obtained. She said the irrigation ditch was never filled in. She discussed the variance and doesn't think that part of Three Mile Drive should be considered arterial. She said the Road Department doesn't have a problem with the approaches. She said the applicant has a problem with condition number six because nothing is currently wrong with the well and wants the condition to say "if" instead of "when". She said the well is only 13 years old and within regulations.

BOARD QUESTIONS

DeKort asked about the environmental assessment being inadequate when referring to distances to services.

Morrison said it depends on what services.

DeKort said sewer and water.

Morrison said those are moving targets because they are moving very fast. She said when the assessment was put together it was accurate.

Robertson asked about building on the remainder and lot one.

Morrison said the letter should have said building site.

DeKort asked about the approach on West Valley Drive.

Morrison said it was the approach to the remainder.

Cross asked Morrison to comment on the neighborhood advisory committee's comments on sewer.

Morrison knows they are concerned about the West Valley Fan, and the nitrates coming out of it. She said it is a phenomenon no one can explain at this time, but during the testing there were extremely low nitrate levels.

Robertson asked if there was newer testing for the nitrate levels.

Morrison said there is no newer testing, but it was a good suggestion to check.

AGENCIES

None.

PUBLIC COMMENT	None.
STAFF REBUTTAL	None.
APPLICANT REBUTTAL	None.
MOTION TO ADOPT WITH AMD F.O.F.	Toavs made a motion seconded by Cross to adopt Staff Report FPP 06-67 as amended as findings-of-fact.
MOTION TO ADD F.O.F # 11	Cross made a motion seconded by DeKort to add Findings of Fact 11 to state: <i>The West Valley Land Use Committee recommended “a favorable recommendation on Subdivision 235 to the planning board for approval with standard conditions. Additionally, we ask that the planning board consider water availability concerns and concerns over nitrate loading levels associated with conventional septic systems on this project and ask that they impose what ever conditions they deem appropriate and within their authority, to address these concerns.</i>
ROLL CALL TO ADD F.O.F # 11	On a roll call vote the motion passed unanimously.
MOTION TO ADD F.O.F # 12	Robertson made a motion seconded by DeKort to add finding 12 to state: <i>The nitrate level of .28mg/L is referenced from an Analytical Report dated 12/02/2002.</i>
ROLL CALL TO ADD F.O.F # 12	On a roll call vote the motion passed unanimously.
BOARD DISCUSSION	Cross discussed the section from DEQ regarding repairing the wells. Robertson said the DEQ report said the well is in need of repair.
MOTION TO ADD F.O.F # 13	Conger made a motion seconded by Fleming to add finding 13 to state: <i>DEQ #03-2161 approval states “when” in paragraphs 11 and 12 in reference to the water and sewer needs on Lot 2 and the water and septic system is currently adequate.</i>

**ROLL CALL TO
ADD F.O.F # 13**

On a roll call vote the motion passed unanimously.

**ROLL CALL
TO ADOPT
WITH AMD.
F.O.F.**

On a roll call vote the motion passed unanimously.

**MOTION
TO APPROVE**

Toavs made a motion seconded by Cross to recommend approval as conditions of FPP 06-67 to the County Commissioners.

**MOTION TO
AMEND
CONDITION 15**

Fleming made a motion seconded by Robertson to amend condition 15 to state: The following statements will be placed on the face of the plat applicable to all lots:

g)i) Dogs must be kept ~~under owner control at all times~~ on a leash or confined on owners property at all times.

**ROLL CALL TO
AMEND
CONDITION 15**

On a roll call vote the motion passed 8-1 with Dziza dissenting.

**MOTION TO
ADD
CONDITION 19**

Fleming made a motion seconded by Robertson to add condition 19 to state: *The applicant shall obtain a variance to Section 3.9(C) for access to Lot 1 via a residential driveway onto Three Mile Drive [Section 7.1, FCSR]*

**ROLL CALL TO
ADD
CONDITION 19**

On a roll call vote the motion passed unanimously.

**MOTION TO
AMEND
CONDITION 6**

Toavs made a motion seconded by Cross amend condition 6 to state: *All water and sewage treatment systems shall receive final approval from the Flathead City-County Health Department and the Montana Department of Environmental Quality. ~~Proof of repair or replacement of the well and septic system on Lot 2 shall be submitted with the final plat application.~~ Proof of permitting and inspection at the time of installation of the well and septic system on Lot 2 shall be submitted with the final plat application. [Section 3.14(A & B) and 3.15(A), FCSR]*

**ROLL CALL TO
AMEND
CONDITION 6**

On a roll call vote the motion passed unanimously.

**MOTION TO
ADD
CONDITION 15i**

Robertson made a motion seconded by Hines to add condition 15i to state: *There shall be no further subdivision of the lots.*

**BOARD
DISCUSSION**

Fleming asked if the motion was intended to include the remainder.

Harris said it is complicated when there is a remainder involved.

The Board discussed the legality of conditioning the remainder since it was not part of the application.

Dziza asked why Robertson made the motion.

Robertson said because the Board keeps seeing further subdivision of lots.

Dziza said sewer is rolling towards the area and someday it might be appropriate to further subdivide the lots.

Harris said the current zoning would not permit further zoning of less than five acres. He said if sewer does reach the area it would have to become annexed into the city and the County would no longer have any say in what happens to the property.

Cross asked if the condition of no further subdivision was put on the plat, and was later annexed into the City, if it would still be legal.

Harris said it was a legal question.

**ROLL CALL TO
ADD
CONDITION 15i**

On a roll call vote the motion failed 4-5 with Fleming, Dziza, Mower, Conger, and Toavs dissenting.

**MOTION TO
ADD
CONDITION 19**

Robertson made a motion seconded by Fleming to add condition 19 to state: *There shall be no further subdividing of the remainder.*

**BOARD
DISCUSSION**

Fleming said it would be unfair to let applicant subdivide the remainder; if the applicant wants more lots they need to come forward with that to begin with.

Robertson said the people who are submitting the application are good, honest people, but the Board needs to start setting standards.

Conger asked Harris if it was a legal motion.

Harris said in this case, the Board would be stretching it to condition the remainder.

The motion was withdrawn.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed 7-2 with Hines and DeKort dissenting.

OLD BUSINESS

Cross said they spent a lot of time going over conditions last week. He said the Board needs a consistent set of conditions coming from Staff.

Harris said Staff is attempting to standardize as many conditions as possible.

Harris handed out draft of meeting dockets for next month's meetings and new Bylaws for the Planning Board. He said the highlighted parts were new ideas.

MOTION

Fleming made a motion seconded by Robertson to add the new Bylaws to the April 18th meeting.

ROLL CALL

On a roll call vote the motion passed unanimously.

**OLD BUSINESS
CONTINUED...**

The Board discussed having another workshop and inviting several different speakers to discuss water rights, septic systems, and motions.

The Board and Staff discussed the new subdivision regulations and which applications would be reviewed with the new Growth Policy.

Dziza asked if the Board needs to get up to speed on water rights.

Harris said Kurt Hafferman spoke to the Commissioners and he said he wasn't sure what was going to happen. He said Kurt Hafferman would be willing to talk to the Board about water rights. He discussed the different bills in the legislature.

NEW BUSINESS None.

ADJOURNMENT The meeting was adjourned at approximately 8 p.m. on a motion by Hines seconded by Robertson. The next meeting will be held at 6:00 p.m. on April 11, 2007.

Gene Dziza, President

Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 4/18/07